

**Senate File 366 - Introduced**

SENATE FILE 366  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO SF 49)

**A BILL FOR**

1 An Act relating to radon control and making penalties  
2 applicable.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 103A.8D Residential construction  
2 requirements and standards for radon control.

3 The state building code commissioner shall adopt as a part  
4 of the state building code construction requirements and  
5 standards for radon control in new residential construction.  
6 The requirements and standards adopted by the commissioner  
7 shall be based upon the radon control method requirements of  
8 the international code council's most recent international  
9 residential code. Notwithstanding any other provision of  
10 this chapter to the contrary, the construction requirements  
11 and standards for radon control adopted by the commissioner  
12 and approved by the council shall apply to new residential  
13 construction commenced on or after January 1, 2015, and shall  
14 supersede and replace any minimum requirements and standards  
15 for radon control in new residential construction adopted or  
16 enacted by a governmental subdivision prior to that date.  
17 The state building code commissioner may provide training to  
18 builders, contractors, and other interested persons on the  
19 construction requirements and standards for radon control  
20 in residential construction. A builder of a residence for  
21 resale shall not be liable for any claims related to radon  
22 control standards or requirements after the conveyance of the  
23 residence.

24 Sec. 2. Section 103A.10, Code 2013, is amended by adding the  
25 following new subsection:

26 NEW SUBSECTION. 6. Notwithstanding any other provision of  
27 this chapter to the contrary, the construction requirements and  
28 standards for radon control in new residential construction  
29 adopted by the commissioner and approved by the council shall  
30 apply to all new residential construction commenced on or after  
31 January 1, 2015, and shall supersede and replace any minimum  
32 requirements or standards for radon control in new residential  
33 construction adopted or enacted by the governmental subdivision  
34 prior to that date. A builder of a residence for resale shall  
35 not be liable for any claims related to radon control standards

1 or requirements after the conveyance of the residence.

2 Sec. 3. Section 136B.1, subsections 2 and 3, Code 2013, are  
3 amended to read as follows:

4 2. The department shall establish programs and adopt rules  
5 for the certification of persons who test for the presence of  
6 radon gas and ~~radon progeny~~ in buildings, the credentialing of  
7 persons abating the level of radon in buildings, and standards  
8 for radon abatement systems.

9 3. Following the establishment of the certification  
10 and credentialing programs by the department, a person who  
11 is not certified, as appropriate, shall not test for the  
12 presence of radon gas and ~~radon progeny~~, and a person who is  
13 not credentialed, as required, shall not perform abatement  
14 measures. This section does not apply to a person performing  
15 the testing or abatement on a building which the person  
16 owns, or to a person performing testing or abatement without  
17 compensation.

18 Sec. 4. Section 136B.2, subsection 1, paragraph b, Code  
19 2013, is amended to read as follows:

20 b. A Except as otherwise provided in section 558A.4,  
21 subsection 1, and section 562A.13, subsection 7, a person shall  
22 not disclose to any other person, except to the department,  
23 the address or owner of a nonpublic building that the person  
24 tested for the presence of radon gas and ~~radon progeny~~, unless  
25 the owner of the building waives, in writing, this right of  
26 confidentiality. Any test results disclosed shall be results  
27 of a test performed within the five years prior to the date of  
28 the disclosure.

29 Sec. 5. Section 136B.2, subsection 2, Code 2013, is amended  
30 to read as follows:

31 2. a. Notwithstanding the requirements of this section,  
32 disclosure to any person of the results of a test performed  
33 on a nonpublic building for the presence of radon gas and  
34 ~~radon progeny~~ is not required if the results do not exceed the  
35 currently established United States environmental protection

1 agency action guidelines, except as otherwise provided in  
2 section 558A.4, subsection 1, and section 562A.13, subsection  
3 7.

4     **b.** A Except as otherwise provided in section 558A.4,  
5 subsection 1, and section 562A.13, subsection 7, a person  
6 who tests a nonpublic building which the person owns is not  
7 required to disclose to any person the results of a test for  
8 the presence of radon gas ~~or progeny~~ if the test is performed  
9 by the person who owns the nonpublic building.

10     Sec. 6. Section 136B.3, Code 2013, is amended to read as  
11 follows:

12     **136B.3 Testing and reporting of radon level.**

13     The department or its duly authorized agents shall from time  
14 to time perform inspections and testing of the premises of a  
15 property to determine the level at which it is contaminated  
16 with radon gas ~~or radon progeny~~ as a spot-check of the validity  
17 of measurements or the adequacy of abatement measures performed  
18 by persons certified or credentialed under section 136B.1.  
19 Following testing the department shall provide the owner of  
20 the property with a written report of its results including  
21 the concentration of radon gas ~~or radon progeny~~ contamination  
22 present, an interpretation of the results, and recommendation  
23 of appropriate action. A person certified or credentialed  
24 under section 136B.1 shall also be advised of the department's  
25 results, discrepancies revealed by the spot-check, actions  
26 required of the person, and actions the department intends to  
27 take with respect to the person's continued certification or  
28 credentialing.

29     Sec. 7. Section 136B.4, Code 2013, is amended to read as  
30 follows:

31     **136B.4 Fees — rules.**

32     1. The department shall establish ~~a fee schedule to defray~~  
33 ~~the costs of~~ and collect fees for the certification and  
34 credentialing programs established pursuant to section 136B.1  
35 and the testing conducted and the written reports provided

1 pursuant to section 136B.3. The fees collected may be used for  
2 educational purposes to promote awareness of and testing for  
3 radon.

4 2. Fees collected pursuant to this section shall be retained  
5 by the department, shall be considered repayment receipts as  
6 defined in section 8.2, and shall be used for the purposes  
7 described in this section, including but not limited to the  
8 addition of full-time equivalent positions for program services  
9 and investigations.

10 3. The department shall adopt rules, pursuant to chapter  
11 17A, to implement this chapter.

12 Sec. 8. NEW SECTION. 136B.7 Radon education fund.

13 1. A radon education fund is created in the state treasury  
14 to be administered by the department of public health. The  
15 fund shall consist of all moneys deposited into the fund  
16 pursuant to section 136B.4.

17 2. Moneys in the fund shall be used by the department to  
18 provide radon program education.

19 3. Notwithstanding section 12C.7, subsection 2, interest or  
20 earnings on moneys in the fund shall be credited to the fund.

21 Sec. 9. NEW SECTION. 280.30 Radon testing and mitigation.

22 1. For purposes of this section, "*short-term test*" means  
23 a test approved by the department of public health in which a  
24 testing device remains in an area for not less than two days  
25 and not more than ninety days to determine the amount of radon  
26 in the air that is acceptable for human inhalation.

27 2. The board of directors of each public school district  
28 and the authorities in charge of each nonpublic school shall  
29 establish a schedule for a short-term testing for radon gas to  
30 be performed at each attendance center under its control at  
31 least once by June 30, 2025, and at least once every ten years  
32 thereafter, and following any new construction of an attendance  
33 center or additions, renovations, or repairs to an attendance  
34 center, unless otherwise provided by subsection 5.

35 3. If the results of a test at an attendance center are at

1 or above four picocuries per liter, the board of directors of  
2 the public school district or the authorities in charge of the  
3 nonpublic school shall have a second short-term test for radon  
4 gas and radon progeny performed at the attendance center within  
5 ninety days of the first short-term test.

6 4. If the results of a second test at an attendance center  
7 pursuant to subsection 3 are at or above four picocuries per  
8 liter, the board of directors of the public school district and  
9 the authorities in charge of the nonpublic school shall retain  
10 a person credentialed to perform radon abatement measures  
11 pursuant to section 136B.1 to develop a radon mitigation plan  
12 within ninety days of the second short-term test. The board  
13 of directors of the public school district and the authorities  
14 in charge of the nonpublic school shall implement the radon  
15 mitigation plan within one year of the second short-term test.

16 5. *a.* The board of directors of each public school  
17 district and the authorities in charge of each nonpublic school  
18 shall have a short-term test for radon gas and radon progeny  
19 performed every other year at any attendance center that has  
20 implemented a radon mitigation plan pursuant to subsection 4 or  
21 an alternative radon mitigation plan pursuant to paragraph "b"  
22 of this subsection.

23 *b.* If the results of a biennial test at an attendance  
24 center are at or above four picocuries per liter, the board of  
25 directors of the public school district and the authorities  
26 in charge of each nonpublic school shall retain a person  
27 credentialed to perform radon abatement measures pursuant to  
28 section 136B.1 to develop an alternative radon mitigation plan  
29 within ninety days of the annual test. The board of directors  
30 of the public school district and the authorities in charge  
31 of the nonpublic school shall implement the alternative radon  
32 mitigation plan within one year of the annual test.

33 *c.* The board of directors of each public school district  
34 and the authorities in charge of each nonpublic school shall  
35 continue biennial radon testing at an attendance center

1 until the results of annual radon testing at the attendance  
2 center have been less than four picocuries per liter for four  
3 consecutive years.

4 6. Radon testing pursuant to this section shall be conducted  
5 by a person certified to conduct such testing pursuant to  
6 section 136B.1 and shall be conducted as prescribed by the  
7 department of public health. Radon mitigation plans and  
8 alternative radon mitigation plans pursuant to this section  
9 shall be developed and implemented as prescribed by the  
10 department of public health.

11 7. The department of public health and the department of  
12 education shall each adopt rules pursuant to chapter 17A to  
13 jointly administer this section.

14 Sec. 10. Section 298.3, subsection 1, Code 2013, is amended  
15 by adding the following new paragraph:

16 NEW PARAGRAPH. *n.* Radon testing and radon mitigation  
17 pursuant to section 280.30.

18 Sec. 11. STATE MANDATE FUNDING SPECIFIED. In accordance  
19 with section 25B.2, subsection 3, the state cost of requiring  
20 compliance with any state mandate included in this Act shall  
21 be paid by a school district from state school foundation  
22 aid received by the school district under section 257.16, a  
23 physical plant and equipment levy under section 298.2, or  
24 modified allowable growth under section 257.31, subsection 6.  
25 This specification of the payment of the state cost shall be  
26 deemed to meet all of the state funding-related requirements of  
27 section 25B.2, subsection 3, and no additional state funding  
28 shall be necessary for the full implementation of this Act  
29 by and enforcement of this Act against all affected school  
30 districts.

31 EXPLANATION

32 This bill requires that the building code commissioner,  
33 with the approval of the building code advisory council, adopt  
34 requirements and standards for radon control in new residential  
35 construction. The bill provides that the standards shall

1 supersede and replace any minimum radon control requirements  
2 and standards for new residential construction adopted by  
3 governmental subdivisions in Iowa. The bill requires that the  
4 requirements and standards be mandatory for all new residential  
5 construction beginning on or after January 1, 2015.

6 Any person who fails to comply with an order to remedy  
7 any condition in violation of the adopted requirements and  
8 standards within 30 days after service or within the time  
9 fixed for compliance, whichever is longer, shall be guilty of  
10 a simple misdemeanor pursuant to Code section 103A.21. Any  
11 owner, builder, architect, tenant, contractor, subcontractor,  
12 construction superintendent or their agents, or any other  
13 person taking part or assisting in the construction or use  
14 of any building or structure who knowingly violates such  
15 requirements and standards shall also be guilty of a simple  
16 misdemeanor. A simple misdemeanor is punishable by confinement  
17 for no more than 30 days or a fine of at least \$65 but not more  
18 than \$625 or by both.

19 The bill creates a radon education fund to be administered by  
20 the department of public health to be used by the department  
21 to provide radon program education. The bill provides that  
22 certain fees collected by the department be deposited into this  
23 fund.

24 The bill requires the board of directors of each public  
25 school district and the authorities in charge of each nonpublic  
26 school to have a short-term test for radon gas performed at  
27 each attendance center under its control at least once by  
28 June 30, 2025, and at least once every 10 years thereafter,  
29 and following new construction of an attendance center or  
30 additions, renovations, or repairs to an attendance center.  
31 If the results of such a test are at or above four picocuries  
32 per liter, the bill requires the board of directors of the  
33 public school district and the authorities in charge of the  
34 nonpublic school to have a second short-term test performed at  
35 the attendance center within 90 days.

1 If the results of a second test are at or above four  
2 picocuries per liter, the bill requires the board of directors  
3 of the public school district and the authorities in charge of  
4 the nonpublic school to retain a person credentialed to perform  
5 radon abatement measures to develop a radon mitigation plan  
6 within 90 days. The radon mitigation plan must be implemented  
7 within one year.

8 If the results of a short-term test at an attendance center  
9 at which a radon mitigation plan has been implemented are at or  
10 above four picocuries per liter, the bill requires the board of  
11 directors of the public school district and the authorities in  
12 charge of the nonpublic school to retain a person credentialed  
13 to perform radon abatement measures to develop an alternative  
14 radon mitigation plan within 90 days. The alternative radon  
15 mitigation plan must be implemented within one year.

16 The bill requires biennial, short-term radon testing for any  
17 school site at which a radon mitigation plan or an alternative  
18 radon mitigation plan has been implemented, which continues  
19 until the results have been less than four picocuries per liter  
20 for four consecutive years.

21 The bill defines "short-term test" as a test approved by  
22 the department of public health in which a testing device  
23 remains in an area for not less than two days and not more than  
24 90 days to determine the amount of radon in the air that is  
25 acceptable for human inhalation. Radon testing pursuant to the  
26 bill must be conducted by a person certified to conduct such  
27 testing and must be conducted as prescribed by the department  
28 of public health. Radon mitigation plans and alternative radon  
29 mitigation plans pursuant to the bill must be developed and  
30 implemented as prescribed by the department of public health.

31 The bill requires the department of public health and  
32 the department of education to each adopt rules to jointly  
33 administer the provisions of the bill relating to radon testing  
34 in schools.

35 The bill adds radon testing and radon mitigation pursuant to

1 the bill to the list of permissible uses of a physical plant  
2 and equipment levy by a school district.

3 The bill makes various changes to the purposes for which fees  
4 collected by the department of public health relating to radon  
5 testing can be used.

6 The bill strikes references to radon progeny in the Iowa  
7 Code.

8 The bill may include a state mandate as defined in Code  
9 section 25B.3. The bill requires that the state cost of  
10 any state mandate included in the bill be paid by a school  
11 district from state school foundation aid received by the  
12 school district under Code section 257.16, a physical plant  
13 and equipment levy under Code section 298.2 or modified  
14 allowable growth under Code section 257.31, subsection 6. The  
15 specification is deemed to constitute state compliance with  
16 any state mandate funding-related requirements of Code section  
17 25B.2. The inclusion of this specification is intended to  
18 reinstate the requirement of political subdivisions to comply  
19 with any state mandates included in the bill.